

**REMARKS:**

This Amendment under 37 C.F.R. § 1.312 is submitted in response to a Notice of Allowance and Examiner's Amendment dated 23 February 2009. In particular, the Examiner states:

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. Authorization for this examiner's amendment was given in a telephone interview with Steven J. Laureanti on October 22, 2008.

(23 February 2009 Notice of Allowance, page 2). In response, Applicant is submitting this Amendment under 37 C.F.R. § 1.312 to correct the amendments to Claims 21-30 in the Examiner's Amendment in the Notice of Allowance dated 23 February 2009 concurrently with the electronic payment of the Issue Fee.

As noted above, Examiner Gregory L. Johnson telephoned the undersigned, Steven J. Laureanti on 22 October 2008 to conduct a telephone interview on the subject application. Specifically, Mr. Laureanti provided the following authorization for an Examiner's amendment:

1. Claim 21: Remove the term "storage" and replace the term "operable" with the term "configured."
2. Claims 22-30: Replace the term "software" with the term "computer-readable medium."

Applicant respectfully notes that Claims 23-30 in the Examiner's Amendment show the status of the claims as "Previously Presented" with the term "computer-readable medium" in each claim. However, as of Applicant's Response to Office Action filed 19 September 2008 each of Claims 23-30 do not use the term "computer-readable medium," but instead each of Claims 23-30 use the term "software."

Therefore, the Amendments provided to Claims 21-30 herewith, are made with reference to the status of the claims as of Applicant's Response to Office Action filed 19 September 2008 and

not the Examiner's Amendment in the Notice of Allowance dated 23 February 2009, because of this discrepancy.

In addition, Applicant respectfully submits that Mr. Laureanti did not agree or authorize the amendment to the preamble of Claim 21 to recite "[...] the software when executed using one or more computers ~~is operable to~~[:]), the one or more computers:]" as shown in the Examiner's Amendment in the Notice of Allowance dated 23 February 2009. That is, Applicant respectfully submits that the Examiner's Amendment to the preamble of Claim 21 in the Notice of Allowance dated 23 February 2009 is unacceptable.

Therefore, Applicant respectfully requests that the preamble of Claim 21 to read as follows:

A computer-readable medium embodied with software enabling dynamic pricing in an unbalanced market, the software when executed using one or more computers is configured to:

Applicant respectfully requests that the Examiner ensure that the preamble of Claim 21 of the subject application is amended as agreed and authorized in the 22 October 2008 telephonic interview, prior to issuing the subject application. No new matter has been added.

The Examiner may call Mr. Laureanti at (480) 830-2700 if there are any comments or questions regarding the claim amendments or if the Examiner believes that it would be easier to discuss the claim amendments under 37 C.F.R. § 1.312, over the telephone.

**CONCLUSION:**

Part B of the Issue Fee Transmittal Form is being filed electronically herewith to facilitate the processing of this deposit account authorization. **The Commissioner is hereby authorized to charge the amount of \$1540.00 for the \$1,510.00 Issue Fee and the \$30.00 fee for ten additional copies of the patent to Deposit Account No. 500777.** No other fees are deemed to be necessary; however, the undersigned hereby authorizes the Commissioner to charge any necessary fees, or credit any overpayments, to **Deposit Account No. 500777.**

**Please link this application to Customer No. 53184 so that its status may be checked via the PAIR System.**

Respectfully submitted,

21 May 2009

Date

/Steven J. Laureanti/signed

Steven J. Laureanti, Registration No. 50,274

BOOTH UDALL, PLC  
1155 W. Rio Salado Pkwy., Ste. 101  
Tempe AZ, 85281  
214.636.0799 (mobile)  
480.830.2700 (office)  
480.830.2717 (fax)  
steven@boothudall.com

**CUSTOMER NO. 53184**